

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

RYAN PFLIPSEN,

Plaintiff,

VS.

DERRICK MANAGEMENT, LLC,

Defendant.

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CIVIL ACTION NO. SA-24-CV-0195-FB

**ORDER GRANTING MOTION TO DISMISS AND MOTION FOR LEAVE
TO FILE AMENDED COMPLAINT**


Before the Court are Defendant Derrick Management, LLC’s Motion to Dismiss (docket #7) and Plaintiff’s Response to Defendant Derrick Management, LLC’s Motion to Dismiss by Way of Joinder and Plaintiff’s Unopposed Motion for Leave to File Amended Complaint (docket #9). In its motion to dismiss, Defendant Derrick Management, LLC states that it cannot be liable for any alleged violations of the ADA or ADAAG in connection with any conditions at 5500 Babcock Road, San Antonio, Texas 78240 (the “Property”), because it does not own the Property. Moreover, the re-pleading of any claims against it would be futile because it is “beyond doubt that Plaintiff can prove no set of facts in support of his claims—at least against Derrick—that would entitle him to relief” as “Plaintiff has failed to join the actual owner of the Property as the proper party in this case.” Motion to Dismiss, docket #7 at page 3. Defendant asks that pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(7), Plaintiff’s complaint be dismissed with prejudice.

Based on the foregoing and the arguments and authority presented by the Defendant in its motion, Plaintiff, in his response, joins in the Motion to Dismiss and asks for leave to file an amended complaint in order to include the proper party. The Court finds both motions have merit and should be granted.

Accordingly, IT IS HEREBY ORDERED Defendant Derrick Management, LLC's Unopposed Motion to Dismiss (docket #7) and Plaintiff's Unopposed Motion for Leave to File Amended Complaint (docket #9) are GRANTED such that (1) Plaintiff may **traditionally file** Plaintiff's Amended Complaint, as proposed and attached to the motion for leave at Exhibit "1" (docket #9-1), on or before **May 3, 2024**. See Section 5(a)(3), *Administrative Policies and Procedures for Electronic Filing in Civil and Criminal Cases*, Western District of Texas, revised June 24, 2021 (amended complaints must be traditionally filed if new parties are added); and (2) all claims and the case against Defendant Derrick Management, LLC are DISMISSED WITH PREJUDICE.

It is so ORDERED.

SIGNED this 22nd day of April, 2024.



FRED BIERY
UNITED STATES DISTRICT JUDGE